

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2044

To remove police officers employed by The Long Island Rail Road Company from coverage under the Employers' Liability Act, the Railway Labor Act, the Railroad Retirement Act, and the Railroad Unemployment Insurance Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 1995

Mr. ACKERMAN (for himself, Mr. KING, Mr. LAZIO of New York, Mr. FRISA, and Mr. FORBES) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To remove police officers employed by The Long Island Rail Road Company from coverage under the Employers' Liability Act, the Railway Labor Act, the Railroad Retirement Act, and the Railroad Unemployment Insurance Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXCLUSION FROM FEDERAL EMPLOYERS' LI-**  
2 **ABILITY ACT AND RAILWAY LABOR ACT.**

3 LIRR police officers shall not be considered employ-  
4 ees of a common carrier by railroad for purposes of the  
5 Act entitled "An Act relating to the liability of common  
6 carriers by railroad to their employees in certain cases",  
7 enacted April 22, 1908 (popularly known as the Employ-  
8 ers' Liability Act) and shall not be considered employees  
9 of a carrier for purposes of the Railway Labor Act.

10 **SEC. 2. EXCLUSION FROM RAILROAD RETIREMENT ACT OF**  
11 **1974, RAILROAD UNEMPLOYMENT INSURANCE**  
12 **ACT, AND RELATED TAXES.**

13 (a) EXCLUSION FROM RAILROAD RETIREMENT ACT  
14 OF 1974 AND RAILROAD UNEMPLOYMENT INSURANCE  
15 ACT.—For purposes of the Railroad Retirement Act of  
16 1974 and the Railroad Unemployment Insurance Act, a  
17 covered LIRR police officer shall not, as such, be consid-  
18 ered an employee (as defined therein).

19 (b) EXCLUSION FROM RAILROAD RETIREMENT TAX  
20 ACT.—For purposes of the Railroad Retirement Tax Act,  
21 a covered LIRR police officer shall not, as such, be consid-  
22 ered an employee or employee representative (as defined  
23 therein).

24 (c) RAILROAD UNEMPLOYMENT REPAYMENT TAX.—  
25 For purposes of chapter 23A of the Internal Revenue Code  
26 of 1986, remuneration paid by the LIRR or any employee

1 organization to any covered LIRR police officer as such  
2 shall not be treated as rail wages (as defined therein).

3 **SEC. 3. CLARIFICATION OF TAX TREATMENT.**

4 (a) IN GENERAL.—

5 (1) IN GENERAL.—No amount shall be includ-  
6 ible in the gross income of any covered LIRR police  
7 officer (or any beneficiary thereof) by reason of—

8 (A) any transfer of assets in furtherance of  
9 the controlling agreement to the N.Y. System  
10 from any pension plan maintained by the  
11 LIRR, or

12 (B) any payment by the LIRR to the N.Y.  
13 System pursuant to such agreement,  
14 in connection with the cancellation of such officer's  
15 rights under the Additional Plan.

16 (2) LIMITATION.—Paragraph (1) shall not  
17 apply with respect to a covered LIRR police officer  
18 to the extent that the aggregate of the transfers and  
19 payments referred to in paragraph (1) with respect  
20 to such officer exceeds the amount deemed necessary  
21 under the N.Y. System to fund such officer's ac-  
22 crued benefit under the N.Y. System attributable to  
23 service performed while a participant in the Addi-  
24 tional Plan.

1 (b) BENEFITS ACCRUING UNDER N.Y. SYSTEM.—  
2 For purposes of determining the Federal taxation of bene-  
3 fits accrued by a covered LIRR police officer under the  
4 N.Y. System by reason of the performance of services  
5 after ceasing to accrue benefits under the Additional Plan,  
6 the choice which such officer has of coverage under the  
7 N.Y. System rather than the Additional Plan shall not be  
8 treated as a cash or deferred election under a cash or de-  
9 ferred arrangement for purposes of section 401(k) of the  
10 Internal Revenue Code of 1986.

11 (c) CONTROLLING AGREEMENT.—For purposes of  
12 this section, the term “controlling agreement” means the  
13 collective bargaining agreement made June 30, 1989, by  
14 and between the LIRR and The Long Island Rail Road  
15 Company Police Benevolent Association, including the  
16 agreement made October 10, 1990, by and between such  
17 parties to further the implementation of Article XXXVI  
18 of such collective bargaining agreement.

19 (d) ADDITIONAL PLAN.—For purposes of this sec-  
20 tion, the term “Additional Plan” means The Long Island  
21 Rail Road Company Plan for Additional Pensions.

22 **SEC. 4. DEFINITIONS.**

23 For purposes of this Act—

24 (1) the term “covered LIRR police officer”  
25 means an LIRR police officer who is accruing or en-

1 titled to benefits under the N.Y. System, based on  
2 service as an LIRR police officer;

3 (2) the term “LIRR” means The Long Island  
4 Rail Road Company, a public benefit corporation of  
5 the State of New York;

6 (3) the term “LIRR police officer” means—

7 (A) any person who on or after the effec-  
8 tive date of section 389 of the Retirement and  
9 Social Security Law of the State of New York  
10 holds an appointment as a police officer in the  
11 LIRR police department pursuant to section 88  
12 of the Railroad Law of the State of New York;  
13 and

14 (B) any probationary police officer in that  
15 department who is expected to hold such an  
16 appointment after completing the requisite  
17 training,

18 whose initial employment with that department was  
19 in the position of such a probationary officer or as  
20 a patrolman, policewoman, sergeant, lieutenant, or  
21 detective, or any successor title to any of the fore-  
22 going positions; and

23 (4) the term “N.Y. System” means the New  
24 York State and local Police and Fire retirement  
25 system.

1 **SEC. 5. EFFECTIVE DATE.**

2       This Act shall take effect on the first day of the first  
3 calendar month following receipt by the comptroller of the  
4 State of New York of the election by the LIRR, pursuant  
5 to subdivision b of section 331 of the Retirement and So-  
6 cial Security Law of the State of New York, to participate  
7 in the N.Y. System.

